

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES BELL, #201585,

Petitioner,

v.

CASE NO. 5:09-CV-14423
HONORABLE JOHN CORBETT O'MEARA

NICK LUDWICK,

Respondent.

_____ /

ORDER DENYING PETITIONER'S MOTION TO COMPEL

This matter is before the Court on Petitioner's motion to compel production of several documents which he believes are necessary to this case. In particular, he seeks a copy of the preliminary examination transcript, search warrants for his residence, an autopsy report, and a woman's 2000 to 2004 medical records. Respondent has not filed a reply to the motion.

Pursuant to Rule 5 of the Rules Governing Section 2254 Cases, Respondent is required to submit all transcripts and documents relevant to the determination of the habeas petition at the time the answer is filed. 28 U.S.C. foll. § 2254, Rule 5. The Court may also require that the record be expanded to include additional materials relevant to the determination of the petition. *See* Rule 7, Rules Governing Section 2254 Cases, 28 U.S.C. foll. § 2254, Rule 7. Rule 8 of the Rules Governing Section 2254 Cases provides, in pertinent part:

If the petition is not dismissed at a previous stage in the proceeding, the judge, after the answer and the transcript and record of state court proceedings are filed, shall, upon review of those proceedings and of the expanded record, if any, determine whether an evidentiary hearing is required.

Respondent has recently filed an answer to the habeas petition and the state court record. Until such time as those materials are reviewed, however, the Court need not require that additional information be obtained or submitted for consideration or that an evidentiary hearing be conducted.

The Court also notes that “[a] habeas petitioner, unlike the usual civil litigant in federal court, is not entitled to discovery as a matter of ordinary course.” *Bracy v. Gramley*, 520 U.S. 899, 904 (1997). At this time, Petitioner has not made the requisite showing of “good cause” that the requested items are necessary to the disposition of his case. *Id.* at 908; 28 U.S.C. foll. § 2254, Rule 6(a). Petitioner has already filed his habeas petition and supporting materials.

Accordingly, the Court **DENIES WITHOUT PREJUDICE** Petitioner’s motion. Should the Court determine that such materials are necessary for the resolution of this matter, after more thoroughly reviewing the pleadings and the state court record, it will enter an appropriate order. Petitioner need not file an additional motion concerning this issue.

IT IS SO ORDERED.

s/John Corbett O’Meara
United States District Judge

Date: July 16, 2010

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, July 16, 2010, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager